No. 422

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1962

CITY OF KANSAS CITY, MISSOURI, A MUNICIPAL CORPORATION,

Petitioner,

FEDERAL PACIFIC ELECTRIC COMPANY,

Respondent,

and

CITY OF KANSAS CITY, MISSOURI, A MUNICIPAL CORPORATION,

Petitioner,

GENERAL ELECTRIC COMPANY,

Respondent.

SUPPLEMENTAL MEMORANDUM OF RESPONDENT GENERAL ELECTRIC COMPANY ON PETITION FOR CERTIORARI

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CITY OF KANSAS CITY, MISSOURI, A MUNICIPAL CORPORATION,

Petitioner,

v.

FEDERAL PACIFIC ELECTRIC COMPANY,

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and

CITY OF KANSAS CITY, MISSOURI, A MUNICIPAL CORPORATION,

Petitioner,

v.

GENERAL ELECTRIC COMPANY,

Respondent.

SUPPLEMENTAL MEMORANDUM OF RESPONDENT GENERAL ELECTRIC COMPANY ON PETITION FOR CERTIORARI

Opinion Below

On November 6, 1962, the United States Court of Appeals for the Eighth Circuit handed down an opinion reversing the judgments of the District Court in the two cases which are the subject of this petition.

We are advised that copies of the opinion have been furnished by the Clerk of the Court of Appeals for all members of this Court.

Suggestions

(1) We are advised that there is no case in which a petition for certiorari has been granted at the behest of a prevailing party in a Court of Appeals. It has been suggested, moreover, that the grant of certiorari on such a petition would involve substantial questions as to whether a case or controversy exists, and would be inconsistent with this Court's settled refusal to entertain an appeal by a party who is successful in the lower court. See Stern and Gressman, Supreme Court Practice, Second Edition, page 15.

(2) After consideration of the opinion of the Eighth Circuit Court of Appeals, this respondent is preparing and proposes to file a petition for rehearing pursuant to the rules of that Court, setting forth controlling matters of law which this respondent claimed the Court overlooked. Such a petition is due within twenty days following the date of judgment, which was November 6, 1962.

(3) Under these circumstances we suggest that it would be unwise to assume a jurisdictional problem such as is presented by the instant petition, which was filed before decision in the Court of Appeals. We therefore suggest that certiorari be not granted on the present petition.

Respectfully submitted,

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